

ESTTA Tracking number: **ESTTA568926**Filing date: **11/04/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Pittsburgh Associates
Granted to Date of previous extension	11/03/2013
Address	PNC Park at North Shore 115 Federal Street Pittsburgh, PA 15212 UNITED STATES

Attorney information	Aryn M. Emert Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES ame@cll.com, jmn@cll.com, trademark@cll.com Phone:212-790-9200
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**Applicant Information**

Application No	85611264	Publication date	05/07/2013
Opposition Filing Date	11/04/2013	Opposition Period Ends	11/03/2013
Applicant	True Grit Entertainment, Inc. 9336 Washington Boulevard Culver City, CA 90232 CANADA		

**Goods/Services Affected by Opposition**

Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, athletic shoes, hats and caps, athletic uniforms and jerseys; apparel, namely, shirts, t-shirts, pants, skirts, blouses, shorts, jeans, sweat shirts, sweaters, caps, hats, bandanas, headbands, wrist bands, stockings, socks, shoes, tennis shoes, sandals, flip-flops, jackets, coats, belts, hoods, gloves, pajamas, dresses, underwear, boxers, bras, tights and yoga wear, namely, yoga shorts and yoga pants; Swim wear, swim suits, bikinis, wraps, beach wear, namely, beach shoes, wet suits; apparel for dancers, namely, leggings, shirts, jackets, pants, sweat shirts, t-shirts, skirts; apparel for cheerleaders, namely, uniforms, shirts, shorts, jackets, pants, sweat shirts, t-shirts; children's clothing, namely, shirts, shorts, jackets, pants, sweat shirts, t-shirts; women's clothing, namely, shirts, shorts, jackets, pants, sweat shirts, t-shirts; and visors and sun visors

**Grounds for Opposition**

Other	Please see attached pleading.
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Attachments	Letter to Commissioner - MALIBU PIRATES.pdf(68704 bytes )
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	NOO - MALIBU PIRATES.pdf(18156 bytes )
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## **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Aryn M. Emert/
Name	Aryn M. Emert
Date	11/04/2013



Cowan, Liebowitz & Latman, P.C.  
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November 4, 2013

**By Electronic Filing**

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Pittsburgh Associates  
Notice of Opposition Against  
True Grit Entertainment, Inc.  
Application to register MALIBU PIRATES  
Ref. No. 21307.020

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/611,264 published in the Official Gazette on May 7, 2013. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Aryn M. Emert/  
Aryn M. Emert

Enclosures

cc: Ms. Diane Kovach (w/encs.)  
Mary L. Kevlin, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/611,264  
Filed: April 28, 2012  
For Mark: MALIBU PIRATES  
Published in the Official Gazette: May 7, 2013

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PITTSBURGH ASSOCIATES,	:
Opposer,	:
	:
v.	:
TRUE GRIT ENTERTAINMENT, INC.,	:
Applicant.	:
-----X	

Opposition No.

**NOTICE OF OPPOSITION**

Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer, Pittsburgh Associates (“Opposer”), a Pennsylvania limited partnership, with offices at PNC Park at North Shore, 115 Federal Street, Pittsburgh, Pennsylvania 15212, believes that it will be damaged by registration of the standard character word mark MALIBU PIRATES (“Applicant's Mark”) in International Class 25 for “Athletic apparel, namely, shirts, pants, jackets, footwear, athletic shoes, hats and caps, athletic uniforms and jerseys; apparel, namely, shirts, t-shirts, pants, skirts, blouses, shorts, jeans, sweat shirts, sweaters, caps, hats, bandanas, headbands, wrist bands, stockings, socks, shoes, tennis shoes, sandals, flip-flops, jackets, coats, belts, hoods, gloves, pajamas, dresses, underwear, boxers, bras, tights and yoga wear, namely, yoga shorts and yoga pants; Swim wear, swim suits, bikinis, wraps, beach wear, namely, beach shoes, wet suits; apparel for dancers, namely, leggings, shirts, jackets, pants, sweat shirts, t-shirts, skirts; apparel for cheerleaders, namely, uniforms, shirts, shorts, jackets, pants, sweat shirts, t-shirts; children's clothing, namely, shirts, shorts, jackets, pants, sweat shirts, t-shirts;

women's clothing, namely, shirts, shorts, jackets, pants, sweat shirts, t-shirts; and visors and sun visors” as shown in Application Serial No. 85/611,264 (the “Application”), and having been granted extensions of time to oppose up to and including November 3, 2013, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned PITTSBURGH PIRATES MAJOR LEAGUE BASEBALL club.

2. Since long prior to April 28, 2012, Applicant’s constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the name or mark PIRATES and/or PIRATE, and/or various designs of a pirate, alone or with other words, including preceded by geographic terms such as PITTSBURGH, letters and/or designs (“Opposer’s PIRATES Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, athletic apparel, women and children’s apparel, shirts, pants, jackets, footwear, headwear, including, but not limited to, hats and caps, athletic uniforms and jerseys, t-shirts, shorts, sweatshirts, wristbands, hosiery, socks, pajamas, dresses, boxers and visors; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items.

3. Opposer owns U.S. federal registrations for Opposer’s PIRATES Marks in International Classes 6, 9, 14, 16, 18, 21, 25, 28 and 41, namely, Registration Nos. 1,013,729; 1,480,072; 1,501,664; 1,539,239; 1,552,934; 1,608,016; 1,634,019; 2,012,501; 2,573,395; 2,620,454; 2,801,698; 2,880,609; 3,299,390; 3,303,986; 3,370,400; 3,393,066; 3,469,832; 3,951,983; 3,951,984; 3,967,257; 4,234,449; 4,234,450; and 4,354,164. Registration Nos.

1,013,729; 1,480,072; 1,501,664; 1,539,239; 1,552,934; 1,608,016; 1,634,019; 2,573,395; 2,620,454; 2,801,698; 2,880,609; 3,299,390 and 3,303,986 are incontestable.

4. Since long prior to April 28, 2012, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's PIRATES Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, athletic apparel, women and children's apparel, shirts, pants, jackets, footwear, headwear, including, but not limited to, hats and caps, athletic uniforms and jerseys, t-shirts, shorts, sweatshirts, wristbands, hosiery, socks, pajamas, dresses, boxers and visors; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items and have offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's PIRATES Marks, Opposer has built up highly valuable goodwill in Opposer's PIRATES Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On April 28, 2012, Applicant filed the Application for Applicant's Mark for "athletic apparel, namely, shirts, pants, jackets, footwear, athletic shoes, hats and caps, athletic uniforms and jerseys; apparel, namely, shirts, t-shirts, pants, skirts, blouses, shorts, jeans, sweat shirts, sweaters, caps, hats, bandanas, headbands, wrist bands, stockings, socks, shoes, tennis shoes, sandals, flip-flops, jackets, coats, belts, hoods, gloves, pajamas, dresses, underwear, boxers, bras, tights and yoga wear, namely, yoga shorts and yoga pants; swim wear, swim suits, bikinis, wraps, beach wear, namely, beach shoes, wet suits; apparel for dancers, namely,

leggings, shirts, jackets, pants, sweat shirts, t-shirts, skirts; apparel for cheerleaders, namely, uniforms, shirts, shorts, jackets, pants, sweat shirts, t-shirts; children's clothing, namely, shirts, shorts, jackets, pants, sweat shirts, t-shirts; women's clothing, namely, shirts, shorts, jackets, pants, sweat shirts, t-shirts; and visors and sun visors” in International Class 25, based on an intent to use.

7. Upon information and belief, Applicant did not use Applicant's Mark for the goods covered in the Application in United States commerce prior to its constructive first use date of April 28, 2012.

8. The goods covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer's PIRATES Marks.

9. Applicant's Mark consists of the word “PIRATES” preceded by the geographic term MALIBU.

10. The word “PIRATES” in Applicant's Mark is identical to certain of Opposer's PIRATES Marks.

11. The word “MALIBU” in Applicant's Mark is disclaimed as geographically descriptive, thus making the word PIRATES the dominant feature in Applicant's Mark.

12. Applicant's Mark which consists of the identical term PIRATES preceded by a geographic term, so resembles Opposer's PIRATES Marks, which often consist of the term PIRATES preceded by a geographic term, as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by Opposer or associated in some way with Opposer.

Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Aryn M. Emert (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
November 4, 2013

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.  
Attorneys for Opposer

By: /Aryn M. Emert/

Mary L. Kevlin  
Richard S. Mandel  
Aryn M. Emert  
1133 Avenue of the Americas  
New York, New York 10036  
(212)790-9200



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 4, 2013, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Richard L. Hill, Durham Jones & Pinegar, P.C., 4844 North 300 West, Suite 300, Provo, UT 84604-5670.

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/Aryn M. Emert/  
Aryn M. Emert